

GIBSON DECLARATION- EXHIBIT 6

8/24/2020

New York State School Boards Association

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Store](#)**[On Board Online](#)**[On Board Archive](#)[News Releases](#)[NYSSBA News](#)[NYSSBA Study Break](#)[President's Gavel](#)[Reports](#)[Budget Votes](#)[Teacher Contract Survey](#)[Media Contacts](#)**School districts can be fined for unvaccinated students****On Board Online • September 23, 2019****By Merri Rosenberg**
Special Correspondent

Amid concern about how a new vaccination law will affect school enrollments, school administrators say the opening day of school was uneventful. But many are uncertain about what Day 15 will look like.

Despite a new law ending religious exemption from vaccinations, unvaccinated children were allowed to start classes this fall. However, children may remain enrolled in school only if they have received the first doses of appropriate immunizations within the first 14 calendar days after instruction starts, according to a law Governor Andrew M. Cuomo signed on June 13.

School attorneys are recommending schools have a strategy to ensure they are complying with the law, especially because they can be fined for failing to do so.

"A school could be subject to a fine of up to \$2,000 for each violation of the vaccination requirements," said Jill Montag, a spokeswoman for the state Department of Health.

Families of students who get their first round of vaccines also need to show within the first 30 days of school that follow up appointments have been scheduled for the necessary follow-up doses. Then their children can attend school until June 30, 2020. The law applies to children who attend public, private, and religious schools, as well as students who are home schooled and those attending day care and summer camp.

"Many of our clients have been sending written 'warning' notices to parents whose children have deficiencies in immunization requirements," said Beth Sims, an attorney with Shaw, Perelson, May & Lambert, LLP in Poughkeepsie. She recommends sending a final notice by overnight mail to arrive on or just before the 14th calendar day after the first instructional day of school. The letter should note that children who are not properly vaccinated will not be allowed to enter school the following day. If unauthorized attempts to enter are made, the letter should advise that such student(s) will be considered to be in trespass and law enforcement will be summoned as needed.

"Districts should also be prepared to advise bus drivers about what to do if excluded children still show up at the bus stop," said Heather Cole, an attorney with Ferrara Fiorenza PC in East Syracuse. "The same goes for principals who may have excluded children who walk, ride or get dropped off at school."

Districts contacted by *On Board* said they were aware of the requirements but declined to provide specifics about how they will handle the task of excluding unvaccinated children.

If a child has been refused admission to school due to lack of proof of vaccination, the principal in charge of the school is required by state Public Health Law section 2164(8-a) to inform local health authorities and provide the parent with a "consent form" to allow vaccination by local health authorities.

Sims said school administrators should consult with their attorneys to create a letter which informs parents of the specific reason(s) for their child's exclusion and explain parents' rights to appeal to the commissioner of education within 30 days of the exclusion decision.

Last year, 26,627 students in public and private schools in New York State had religious exemptions from vaccinations, and 4,571 had medical exemptions, according to the state Department of Health.

The county with most religious exemptions was Rockland County with 1,663 religious exemptions according to a report from the New York State Health Foundation. Nassau County was close behind with 1,604 students claiming a religious exemption, and Orange County, which had 1,227. Across the Finger Lakes, Hudson Valley and Southern Tier, there were more than 5,560 students with religious exemptions: three percent of students enrolled in Columbia County fell into this category.

Superintendents told *On Board* that they did significant outreach over the summer to families that had previously claimed religious exemptions to vaccinations.

Bernadette Burns, superintendent of the 4,200-student West Islip school district in Suffolk County, said she sent out letters in June after the law was enacted. The district's nurses followed up with families, and letters were also sent out the week prior to school opening. The district's web site also provides information under a FAQ section.

The state Legislature passed the law ending religious exemptions after a significant measles outbreak that started in October 2018 in New York, with more than 1,000 cases. There were 300 in Rockland County alone, which led County Executive Ed Day to declare an emergency from late March through July. Anyone with measles, or anyone had been in contact with someone infected with measles, was ordered to stay out of public places. The original version of the order barred unvaccinated children from schools and other public places, but it was struck down by a judge.

The chief operating officer of Rockland BOCES, Mary Jean Marsico, said in late July that "All public schools in Rockland County now report immunization rates of 90%," with some schools having a 100% vaccination rate.

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She added that to date, Rockland BOCES has not encountered any issues with parents/guardians regarding immunizations. "The new state law is clear. Our parents are making sure that children are compliant."

Still, immunization remains a powerfully emotional issue for many families. Despite near-universal medical opinion to the contrary, some parents believe immunizations can be harmful to children.

In August, a headline in the *Syracuse Post-Standard* said: "CNY couple to quit jobs, leave state instead of vaccinating kids." Hundreds of protesters delayed the start of the Sept. 9 meeting of the Board of Regents. Some pounded on windows while chanting about their opposition to vaccines.

And many families are considering home schooling. The New York State Council of School Superintendents has been fielding more inquiries about home schooling from parents and its members, although there is no data yet on whether significant numbers of families chose that option. During the 2018-19 school year, there were 21,530 home-schooled students in the state.

But spot checks by *On Board* suggest no big changes in the number of home-schooled children.

"There's been no meaningful increase in home-schooled students," said Nicholas Stirling, president of the Nassau County School Superintendents Association.

Ditto for Rockland County. "As for the eight component districts in Rockland County, there seems to be a negligible increase in home schooling," said Scott Salotto, director of communications and governmental relations for Rockland BOCES. For example, in the South Orangetown School District, the number has moved from having five home-schooled students in 2018-19 to nine such students in 2019-20.

Parents challenged the law over the summer, and Baldwinsville Superintendent Matthew McDonald wrote a letter to an Albany judge, Acting Supreme Court Justice Denise Hartman, to ask for more time to implement the law. Hartman declined to stop or delay the law going into effect, however.

Recognizing that parents unable to get a religious exemption will often seek a medical exemption, state health officials issued new regulations on Aug. 19. They created a form that physicians must submit to schools to document, in specific detail, why a student can't receive a specific vaccination.

When religious exemptions in other states have been eliminated, "medical exemptions have gone up" according to Mark Zezza, director of policy and research for the New York State Health Foundation. Data on the number of medical exemptions requested in New York this fall is not yet available.

"We're not taking a stance on the law, although we're certainly pro-vaccines," Zezza said. "We certainly see the upside in seeing more kids being vaccinated to protect vulnerable populations."

Principals or the "person in charge of the school" is responsible for acting on applications for medical exemptions. School attorneys recommend that principals involve school nurses or physicians by having them read applications and make recommendations on whether each application should be approved. They can also recommend whether it would be appropriate to seek input from the state Department of Health regarding the medical justification offered in certain applications (see centerfold).

Schools nurses say they are eager to help.

"We're very happy the law was enacted," said Olga Jeanne Dolly, secretary for the State Association of School Nurses. "It will provide a much safer environment." She acknowledged making sure students are up-to-date "will be a little bit of work," but worth it.

The state Department of Health plans to conduct audits will check to ensure that school districts are compliant with the new law.

"The school audits are handled both in-person or remotely," said Montag of the state Health Department. "The department audits review records concerning the immunization status of students to make sure all age appropriate vaccines have been provided. In addition, medical exemptions are reviewed to make sure they are medically appropriate and in compliance with department regulations."

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